

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
TIME SQUARE CONSTRUCTION, INC.,

Plaintiff,

-against-

BUILDING AND CONSTRUCTION TRADES COUNCIL  
OF GREATER NEW YORK, ENTERPRISE ASSOCIATION  
OF STEAMFITTERS LOCAL 638 OF THE UNITED  
ASSOCIATION, CEMENT AND CONCRETE WORKERS  
LOCAL 20 OF THE LABORERS INTERNATIONAL  
UNION OF NORTH AMERICA, UNITED BROTHERHOOD  
OF CARPENTERS & JOINERS OF AMERICA LOCAL  
608, LOCAL #46 METALLIC LATHERS UNION AND  
REINFORCING IRONWORKERS OF NEW YORK AND  
VICINITY OF THE INTERNATIONAL ASSOCIATION  
OF BRIDGE, STRUCTURAL, ORNAMENTAL AND  
REINFORCING IRON WORKERS, INTERNATIONAL  
UNION OF OPERATING ENGINEERS LOCAL 14-14B,  
INTERNATIONAL UNION OF OPERATING ENGINEERS  
LOCAL 15D, AFFILIATED WITH THE AFL-CIO,  
LABORERS LOCAL 79, A CONSTITUENT LOCAL  
UNION OF THE MASON TENDERS DISTRICT COUNCIL  
OF GREATER NEW YORK, AFFILIATED WITH  
LABORERS INTERNATIONAL UNION OF NORTH  
AMERICA, MASON TENDERS DISTRICT COUNCIL  
OF GREATER NEW YORK, DISTRICT COUNCIL OF  
NEW YORK CITY AND VICINITY OF THE UNITED  
BROTHERHOOD OF CARPENTERS, JOINERS OF  
AMERICA, AFL-CIO AND LOCAL UNION 3, INTER-  
NATIONAL BROTHERHOOD OF ELECTRICAL  
WORKERS AND TEAMSTERS LOCAL 282 A/W  
INTERNATIONAL BROTHERHOOD OF TEAMSTERS,  
AFL-CIO, PLUMBERS AND GASFITTERS LOCAL  
UNION NO. 1 AND CEMENT AND CONCRETE  
WORKERS LOCAL 18A OF THE LABORERS INTER-  
NATIONAL UNION OF NORTH AMERICA,

Defendants.

ANSWER OF THE  
I.U.O.E. LOCAL 14-14B  
TO THE AMENDED  
COMPLAINT

07-CIV-7403 (RJS)

ECF Case

-----X

Defendant INTERNATIONAL UNION OF OPERATING ENGINEERS LOCAL 14-14B, AFL-CIO ("LOCAL 14"), by its attorneys BRADY McGUIRE & STEINBERG, P.C., hereby answers the Amended Complaint as follows:

1. Denies knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 1 of the Amended Complaint, but denies the allegations as to LOCAL 14.
2. Admits that the Plaintiff has alleged jurisdiction under Section 303 of the Labor Management Relations Act of 1947, 29 U.S.C. Section 185, but denies the existence of a valid claim or any violation thereunder by Defendant LOCAL 14 as alleged in Paragraph 2 of the Amended Complaint.
3. Admits that the United States District Court for the Southern District of New York is an appropriate venue, but denies any actionable claim arising within the Southern District of New York as against Defendant LOCAL 14 as alleged in Paragraph 3 of the Amended Complaint.
4. Denies knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 4 of the Amended Complaint.
5. Denies knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 5 of the Amended Complaint.
6. Denies knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 6 of the Amended Complaint.
7. Denies knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 7 of the Amended Complaint.
8. Denies knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 8 of the Amended Complaint.

9. Denies knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 9 of the Amended Complaint.

10. Denies knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 10 of the Amended Complaint.

11. Admits to the truth of the allegations contained in Paragraph 11 of the Amended Complaint.

12. Denies knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 12 of the Amended Complaint.

13. Denies knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 13 of the Amended Complaint.

14. Denies knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 14 of the Amended Complaint.

15. Denies knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 15 of the Amended Complaint.

16. Denies knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 16 of the Amended Complaint.

17. Denies knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 17 of the Amended Complaint.

18. Denies knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 18 of the Amended Complaint.

19. Denies knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 19 of the Amended Complaint, except admits that there is a construction project located at 785 Third Avenue, New York, New York (the "jobsite").

20. Denies knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 20 of the Amended Complaint.
21. Denies knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 21 of the Amended Complaint.
22. Denies knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 22 of the Amended Complaint.
23. Denies knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 23 of the Amended Complaint.
24. Denies knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 24 of the Amended Complaint.
25. Denies knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 25 of the Amended Complaint.
26. Denies knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 26 of the Amended Complaint.
27. Denies knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 27 of the Amended Complaint.
28. Denies knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 28 of the Amended Complaint.
29. Denies knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 29 of the Amended Complaint.
30. Denies knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 30 of the Amended Complaint.

31. Denies knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 31 of the Amended Complaint.

32. Denies knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 32 of the Amended Complaint.

33. Denies knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 33 of the Amended Complaint.

34. Denies knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 34 of the Amended Complaint.

35. Denies knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 35 of the Amended Complaint.

36. Denies knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 36 of the Amended Complaint.

37. Denies knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 37 of the Amended Complaint.

38. Denies knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 38 of the Amended Complaint.

39. Denies knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 39 of the Amended Complaint.

40. Denies knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 40 of the Amended Complaint.

41. Denies knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 41 of the Amended Complaint.

42. Denies knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 42 of the Amended Complaint.

43. Denies knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 43 of the Amended Complaint.

44. Denies knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 44 of the Amended Complaint.

45. Denies knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 45 of the Amended Complaint.

46. Denies knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 46 of the Amended Complaint.

47. Denies knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 47 of the Amended Complaint.

48. Denies knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 48 of the Amended Complaint.

49. Denies knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 49 of the Amended Complaint.

50. Denies knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 50 of the Amended Complaint.

51. Denies knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 51 of the Amended Complaint.

52. Denies knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 52 of the Amended Complaint.

**AS AND FOR DEFENDANT'S FIRST AFFIRMATIVE DEFENSE**

53. The Amended Complaint fails to state a claim upon which relief may be granted.

**AS AND FOR DEFENDANT'S SECOND AFFIRMATIVE DEFENSE**

54. The Court lacks subject matter jurisdiction over the Amended Complaint.

**AS AND FOR DEFENDANT'S THIRD AFFIRMATIVE DEFENSE**

55. Plaintiff has failed to state its allegations against Defendant LOCAL 14 with the requisite specificity.

**AS AND FOR DEFENDANT'S FOURTH AFFIRMATIVE DEFENSE**

56. Plaintiff's claims are barred, in whole or in part, by the doctrines of waiver, estoppel and/or unclean hands.

**AS AND FOR DEFENDANT'S FIFTH AFFIRMATIVE DEFENSE**

57. Without admitting any action or statements by Defendant LOCAL 14, any alleged action or statement by Defendant LOCAL 14 constitutes protected conduct pursuant to the U.S. Constitution, federal law and/or state law, and is therefore not actionable.

**AS AND FOR DEFENDANT'S SIXTH AFFIRMATIVE DEFENSE**

58. The relief requested by the Plaintiff is overbroad and the damages alleged cannot be attributed to Defendant LOCAL 14.

**AS AND FOR DEFENDANT'S SEVENTH AFFIRMATIVE DEFENSE**

59. The Amended Complaint fails to state a claim for relief against Defendant LOCAL 14 because the Amended Complaint does not allege that acts allegedly attributed to Defendant LOCAL 14 were authorized, ratified and/or undertaken by the officers, agents or every member of Defendant LOCAL 14.

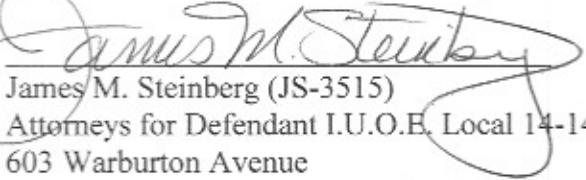
**WHEREFORE**, Defendant LOCAL 14 demands judgment dismissing the Amended Complaint in its entirety, together with the costs and disbursements of this action.

Dated: Hastings-on-Hudson, New York  
February 7, 2008

Respectfully submitted,

BRADY McGUIRE & STEINBERG, P.C.

By:

  
James M. Steinberg (JS-3515)  
Attorneys for Defendant I.U.O.E. Local 14-14B  
603 Warburton Avenue  
Hastings-on-Hudson, New York 10706  
(914) 478-4293

TO: Joel E. Cohen, Esq.  
McDERMOT, WILL & EMERY, LLP  
Attorneys for Plaintiff  
340 Madison Avenue  
New York, New York 10173

Carol O'Rourke Pennington, Esq.  
COLLERAN, O'HARA & MILLS, LLP  
Attorneys for BCTC  
1225 Franklin Avenue, Suite 450  
Garden City, New York 11530

Richard S. Brook, Esq.  
LAW OFFICE OF RICHARD S. BROOK  
Attorneys for Enterprise Association of Steamfitters Local 638  
114 Old Country Road, Suite 250  
Mineola, New York 11501

Bruce Jay Cooper, Esq.  
PITTA & DREIER, LLP  
Attorneys for Cement & Concrete Workers Local 20 of L.I.U.N.A.  
499 Park Avenue  
New York, New York 10022

Gary Rothman, Esq.  
O'DWYER & BERNSTEIN, LLP  
Attorneys for United Brotherhood of Carpenters & Joiners Local 608  
and District Council  
62 Duane Street, 5<sup>th</sup> Floor  
New York, New York 10007

Richard H. Markowitz, Esq.  
MARKOWITZ & RICHMAN ....., .....,  
Assoc. of Bridge, Structural, Ornamental & Reinforcing  
Iron Workers  
121 South Broad Street  
Philadelphia, Pennsylvania 19107

Matthew G. McGuire, Esq.  
BRADY McGUIRE & STEINBERG, P.C.  
Attorneys for Defendant I.U.O.E. Local 15  
603 Warburton Avenue  
Hastings-on-Hudson, New York 10706

Lowell Peterson, Esq.  
MEYER, SUOZZI, ENGLISH & KLEIN, P.C.  
Attorneys for Laborers Local 79  
1350 Broadway, Suite 501  
New York, New York 10018

Lowell Peterson, Esq.  
MEYER, SUOZZI, ENGLISH & KLEIN, P.C.  
Attorneys for Mason Tenderers District Council of Greater New York  
1350 Broadway, Suite 501  
New York, New York 10018

Norman Rothfeld, Esq.  
Attorney for I.B.E.W. Local Union 3  
276 Fifth Avenue, Suite 806  
New York, New York 10001

Bruce Steven Levine, Esq.  
COHEN, WEISS AND SIMON, LLP  
Attorneys for Teamsters Local 282  
330 West 42<sup>nd</sup> Street  
New York, New York 10036

Cement & Concrete Workers Local 18A  
4235 Katonah Avenue  
Bronx, New York 10470

Plumbers and Gasfitters Local Union No. 1  
158-29 Cross Bay Boulevard  
Howard Beach, New York 11414